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C: Allen
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PUBLIC SAFETY OFFICERS ASSOCIATION

**P.O. Box 60372
Sunnyvale, California 94088**

7 October 2003

Julia Miller, Mayor
City of Sunnyvale
P.O. Box 3707
Sunnyvale, CA 94088-3707

Honorable Mayor Miller,

In the late evening hours of 31 August 2003, the Department of Public Safety received multiple reports of a public disturbance in a city owned parking lot that serves the downtown business area. The phone reports described a fight involving multiple participants, weapons, injuries and destruction of privately owned property. This degree of disturbance is clearly a riot as described by legal definition.

The Department of Public Safety responded to this threat to community safety with all available officers. As you are aware, disturbances of this magnitude have on prior occasions quickly developed beyond Public Safety's ability to manage with the authorized resources. Through appropriate response to this event, the implementation of an effective pre-designated operational plan and the cooperation of the downtown merchants and law abiding business patrons, order was quickly restored preventing further injury or property loss.

Within minutes of implementing the operational plan, Vice-Mayor Tim Risch, prompted by a family member, initiated a call to the City Manager challenging the actions undertaken. That challenge resulted in the supervisor on scene being contacted by DPS Communications requesting the supervisor contact Public Safety Director Irwin Bakin. These types of immediate requests can and will result in a chilling distraction at a time when the officers on scene need to concentrate all of their attentions on the task at hand, providing for the community's safety.

In keeping with the communication strategy that has been in place over the last several months, that event and the operation employed to restore order was reported to Council and the downtown business operators through the Chamber of Commerce.

Within days of this event, Vice Mayor Risch embarked on an independently initiated investigation of the appropriateness and lawful nature of the actions taken by our officers. This investigation was initiated without soliciting the support of the other

members of Council and included a series of inflammatory questions directed at the Public Safety Officers and Lieutenants on scene. The questions developed by Vice-Mayor Risch held a patently political focus, accusing those officers of overreacting to the emergency and misrepresenting material facts about the event in the following downtown status report.

In an effort to circumvent the requirements of the City Charter, Vice-Mayor Risch enlisted the assistance of the City Manager, Robert LaSala, who forwarded the questions directly to Director Bakin. Director Bakin reviewed and edited those questions, and passed them, most with text as written by the Vice-Mayor, to a member of Public Safety management staff, with instructions to respond with answers by 11 September 2003. This resulted in interviews being conducted at Public Safety without regard to the procedures required by Sections 3300 through 3312 of the California State Government Code.

All parties involved at Public Safety knew the source of the questions and understood the political implications. Implicitly, Public Safety staff operating as directed by City Management was acting, in effect, as agents of the Vice-Mayor. The impact of the questions and the focus of the investigation could not have been more direct if Vice-Mayor Risch were in the room conducting the interview himself.

Please understand: if members of our department become concerned that a council-member can routinely circumvent the City Charter by enlisting the Office of the City Manager to contrive patently political questions about response to emergency operations, the effect will be to restrict effective action intended to mitigate an emergency. That impact may result in less than effective response to those emergencies, placing the public and our officers at greater risk.

While I understand and I am in support of both Council's and the public's right to question the appropriateness of the actions of Public Safety, I hold grave concern for the manner in which the Vice-Mayor embarked on an investigation, independent of the council, and his attempts to influence our actions on behalf of a family member.

It would be incumbent on the Vice-Mayor and City Manager to show what exigency existed that would preclude the Vice-Mayor from seeking the support and guidance from the council before embarking on an investigation conducted in this manner.

In the interest of community safety and the officers I represent, in an effort to prevent future misguided investigative procedures conducted irrespective of City Charter requirements and state law, and to quell the possibility and ensuing impact of such an improperly conducted investigation, I am asking council to initiate a review of the actions undertaken by Vice-Mayor Risch and City Manager Robert LaSala. I would advise that what occurred was a violation of the City Charter and/or its intent.

I am also asking that Council investigate the appropriateness of unwarranted calls to the City Manager during an emergency operation, particularly near midnight, resulting in arbitrary on-scene distraction. Lastly, I am asking Council to review whether the Vice-Mayor operated with clear conflict of interest attempting to influence law enforcement activity on behalf of a family member.

A handwritten signature in black ink, appearing to be 'Steve Fisk', written over a horizontal line.

Steve Fisk, President

Cc: Council
City Manager
City Attorney
Membership at Large, Sunnyvale Public Safety Officers Association
San Jose Mercury News
Sunnyvale Sun